S.B.CIVIL WRIT PETITION NO.5246/1997.

08.08.2006.

HON'BLE MR.JUSTICE DALIP SINGH

Mr.Prahlad Singh]
Mr.Pradeep Mathur]for the petitioners.
Mrs.Anupama Chaturvedi, for the respondent.

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In this writ petition, the petitioner has challenged the order (Annexure-6) dated 18.01.1994 by which the application filed by the petitioner for setting aside the ex-parte proceeding against the petitioner dated 26.07.1993 was dismissed. The learned Commissioner, Workmen Compesnation has while dismissing the application held after going through the application and the affidavit which was filed that the affidavit has been sworn by one Gulla Ram Meena son of Ram Sahay Meena whereas the said affidavit dated 24.12.1993 has been signed by one Gulab Chand. He, therefore, held that the application on behalf of Gulla Ram is not supported by the affidavit that the summons were not served upon the Gulla Ram prior to 10.07.1993.

Learned counsel for the petitioner submits that Gulla Ram has an alias and is also known as Gulab Chand and therefore, he signed the affidavit as Gulab Chand.

A perusal of the affidavit (Annexure-5) goes

to show that the same does not make any mention of any alias in the said affidavit. With a view to ascertain the veracity of the above submission that Gulla Ram used to sign his name as Gulab Chand, the affidavit filed along with this writ petition and the vakalatnama were also perused by the court. This court finds that firstly, the writ petition does not contain the affidavit of Gulla Ram or the so-called alias Gulab Chand but has been signed by the petitioner No.2 Bodi Ram Meena. The fact as to whether Gulla Ram has any alias or not is within the special knowledge of the aforesaid person but for the reasons best known to him, he has not filed any affidavit in that behalf in this writ petition.

The above fact assumes significance more particularly since the impugned order (Annexure-6) has been passed on the basis of the affidavit not having been filed by Gulla Ram but by one Gulab Chand. It was for the petitioner to have given full details to dispel the belief and show that the judgment suffers from an error apparent on the fact of the record, which the petitioner has failed to do.

In this writ petition, the only signatures which have been made available are not of Gulla Ram or Gulab Chand but are of one Gulashan Meena. The writ petition contains in the cause title the name

of Gulshan Meena alias Gulab Chand Meena alias Gulla Ram Meena but curiously enough the name of the father is missing. The deliberate omission of the name of the father of petitioner leads the court to believe that the petitioner does not want this court to examine the correctness of the judgment impugned (Annexure-6). In the absence of the father's name it is not even clear whether the petitioner No.1 is the same person who was before the learned Workmen Compensation Commissioner. Concealment of these facts and adding one alias after another disentitles the petitioner to any relief, this court in the writ jurisdiction under Article 226 of the Constitution of India is not inclined to exercise the writ jurisdiction in favour of such a petitioner. That apart the signature on the vakalatnama which has been signed on behalf of the petitioner No.1 by one Gulshan Meena who is supposed to be alias Gulla Ram alias Gulab Chand do not inspire confidence. The manner in which the letter 'ग' and the मात्रा ' ु' which has been put do not tally with those on the affidavit of Gulab Chand and do not appear to be in the handwriting of the same person. Even the manner in which the letter 'ल' has been put in the signatures goes to show that the signatures on the document, affidavit along with Annexure-5 and on the vakalatnama in the writ petition are of same person. These are apparent to the eye on bare perusal.

The petitioner before this court has not filed a copy of the summons along with the report of the Process Server to show that in fact the summons were served on 15.07.1993 i.e. after the date fixed which was 10.07.1993. This appears to be deliberate as the petitioner did not want the court to compare the signatures or the summons or in fact it was served prior to the date fixed.

Consequently, this writ petition as well as the stay application are dismissed.

(DALIP SINGH),J.

Solanki DS, Jr.P.A.